

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Note: Instructions to DNRC staff for preparing this EA can be found at:
http://www.dnrc.state.mt.us/eis_ea.html

Part I. Proposed Action Description

1. *Applicant/Contact name and address:* Werner Kummerle
6890 Marblehead Dr
Cincinnati, OH 45243
2. *Type of action:* Application for Beneficial Water Use Permit 43C-30021223
3. *Water source name:* Unnamed Tributary of East Fork Fiddler Creek
4. *Location affected by project:* NESWSE, Section 5, T6S, R17E, Stillwater County.
5. *Narrative summary of the proposed project, purpose, action to be taken, and benefits:*
The proposed project will use water at a rate of 350 gpm up to 0.8 acre-feet per year, from January 1 through December 31, for fire protection & suppression purposes. The point of diversion and place of use are located in the NESWSE, Section 5, T6S, R17E, Stillwater County. The project is to divert water through a small flow-through pond and then pump out of the pond using a portable pump as needed for fire suppression. The pond has already been constructed and is visible on the Emerald Lake aerial photo dated 7-27-05. The pond has a surface area of 0.17 acre and capacity of 0.5 acre-feet. The inflow of the on-stream pond is approximately 2 cfs. The flow rate requested is based on using a 350 gpm pump to use in the event of a fire. The requested volume is based on the amount of water used for 12 hours of fire fighting at the rate of 350 gpm.

The DNRC shall issue a Beneficial Water Use Permit if the applicant proves the criteria in section 85-2-311, MCA are met.

6. *Agencies consulted during preparation of the Environmental Assessment:*
(include agencies with overlapping jurisdiction)

Montana Natural Heritage Program
Montana Department of Fish, Wildlife & Parks – Montana Fisheries Information System
Montana State Historic Preservation Office
National Wetlands Inventory – NRIS Website
Natural Resource & Conservation Service – Web Soil Survey

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity - *Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.*

Determination: The East Fork Fiddler Creek is not identified as chronically or periodically dewatered by the MT Fish, Wildlife and Parks. The water will flow through the pond and only be used for short periods of time as needed for fire suppression. There may be some additional loss of water due to evaporation but given the small size of the pond, the impact is not considered significant.

Water quality - *Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.*

Determination: Neither the East Fork Fiddler Creek or Fiddler Creek are listed as water quality impaired or threatened by the Montana Department of Environmental Quality. As construction of the pond has been completed, there should be no additional impact to water quality with the issuance of this permit.

Groundwater - *Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

Determination: The use of this surface water should not have a significant impact on groundwater water quality or supply.

DIVERSION WORKS - *Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

Determination: The diversion is a small dam constructed on the source. The estimated minimum inflow is 2 cfs. Other than some minor losses of water due to evaporation, all the water flows directly through the pond. In the event of a fire a 9 hp pump with a rated capacity of 350 gpm will be used for fire suppression purposes.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species - *Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern," or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or "species of special concern."*

Determination: A report received from the Montana Natural Heritage Program indicates there is one species of special concern within the general area of the project. The Canada lynx is listed as threatened under the Endangered Species Act. The lynx ranges over multiple townships and it is unlikely this pond would have any significant impact on it

Wetlands - *Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.*

Determination: According to the National Wetland Inventory, other than the creek, there are no wetlands located within the project area.

Ponds - *For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.*

Determination: Due to the small size of this on-stream flow through pond, there will be no significant impact existing wildlife, waterfowl or fisheries.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - *Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.*

Determination: According to the Natural Resource & Conservation Service-Web Soil Survey the soils in the area of the pond are Sebud-Cheadle type soils and are “somewhat limited” for the purpose of pond construction. “Somewhat limited” indicates that the soil has features that are moderately favorable for the specific use. The limitations can be overcome or minimized by special planning, design, or installation. Fair performance and moderate maintenance can be expected. This project should not have a significant impact on the soil quality, stability or moisture content. The soils in this area are not prone to saline seep.

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - *Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.*

Determination: The pond has already been constructed and visible on the Emerald Lake aerial photo dated 7-27-2005. Disturbance to the vegetative cover that occurred during construction has since grown over. It is unknown if the disturbed area was re-seeded or allowed to vegetate naturally. It is the landowners responsibility to control noxious weeds on their property.

AIR QUALITY - *Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.*

Determination: There will be no deterioration of air quality as a result of this appropriation.

HISTORICAL AND ARCHEOLOGICAL SITES - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project.*

Determination: According to a report from the Montana State Historic Preservation Office (SHPO) there are no previously recorded historic or archaeological sites within the project. SHPO feels that there is a low likelihood cultural resources could be impacted and that a cultural resource inventory is unwarranted at this time. As the project is located on private property, any cultural resource inventory conducted would be at the property owner's discretion.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

Determination: No additional impacts on other environmental resources were identified.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

Determination: There are no known environmental plans or goals in this area.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

Determination: This project is located on private property and will not impact access to or the quality of recreational and wilderness activities.

HUMAN HEALTH - *Assess whether the proposed project impacts on human health.*

Determination: This project will have no impact on human health.

PRIVATE PROPERTY - *Assess whether there are any government regulatory impacts on private property rights.*

Yes___ No X If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.

Determination: There are no additional government regulatory impacts on private property rights associated with this application.

OTHER HUMAN ENVIRONMENTAL ISSUES - *For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.*

Impacts on:

(a) Cultural uniqueness and diversity? No significant impact.

(b) Local and state tax base and tax revenues? No significant impact.

- (c) Existing land uses? No significant impact
- (d) Quantity and distribution of employment? No significant impact.
- (e) Distribution and density of population and housing? No significant impact.
- (f) Demands for government services? No significant impact.
- (g) Industrial and commercial activity? No significant impact.
- (h) Utilities? No significant impact.
- (i) Transportation? No significant impact.
- (j) Safety? No significant impact.
- (k) Other appropriate social and economic circumstances? No significant impact.

2. *Secondary and cumulative impacts on the physical environment and human population:*

Secondary Impacts: No secondary impacts are anticipated with this project.

Cumulative Impacts: No cumulative impacts are anticipated with this project.

3. *Describe any mitigation/stipulation measures:* None at this time.

4. *Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*

No Action Alternative: The pond has been constructed and is visible on the Emerald Lake aerial photo dated 7-27-2005. Under the no action alternative the applicant would not have a storage pond to pump water out of in the event of a fire. The pond project would either appropriate water illegally or have to be restored to its natural state.

PART III. Conclusion

1. *Preferred Alternative:* Issue a Provisional Permit if the applicant proves the criteria in section 85-2-311, MCA are met.

2 *Comments and Responses:*

3. *Finding:*

Based on the significance criteria evaluated in this EA, is an EIS required? No

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: No significant impacts have been identified, therefore an EIS is not necessary.

Name of person(s) responsible for preparation of EA:

Name: Denise Biggar

Title: Water Resource Specialist

Date: July 26, 2006